

Remarks/Arguments

Claims 1-14 and 22-25 are now pending in this application. In the January 13, 2005 Office Action, claims 1-29 were rejected under the judicially created doctrine of double patenting over claims 1-21 of U.S. Patent No. 6,384,849. Additionally, claims 1-29 were rejected under 35 U.S.C. §103 (a) as being obvious over U.S. Patent No. 5,828,376 to Solimene et al. (hereinafter "*Solimene*") in view of U.S. Patent No. 5,760,768 to Gram (hereinafter "*Gram*"). For the reasons set forth below, the applicants respectfully request reconsideration and immediate allowance of this application.

Preliminary Amendments

The applicants previously filed three preliminary amendments, dated February 13, 2002, May 21, 2002, and October 25, 2002. By these amendments, independent claim 1 was amended and claims 15-21 and 26-29 were canceled. The January 13, 2005 Office Action did not consider these amendments. As these preliminary amendments were filed in a timely manner, the applicants respectfully request that the amendments be considered.

Double Patenting

Claims 1-29 were rejected under the judicially created doctrine of double patenting over claims 1-21 of U.S. Patent No. 6,384,849. U.S. Patent No. 6,384,849 and the present application are commonly owned. The applicants hereby file a terminal disclaimer in compliance with 37 C.F.R. §1.321(c) concurrently with this response. Accordingly, the applicants respectfully request that the double patenting rejection be withdrawn.

Cited Art

Claims 1-29 were rejected under 35 U.S.C. §103 (a) as being obvious over *Solimene* in view of *Gram*. The applicants respectfully submit that the *Gram* reference is not prior art, specifically because *Gram* was assigned to the assignee of the present application at the time the invention was made. Accordingly, *Gram* is not prior art under amended 35 U.S.C. §103(c). The present application is a continuation of and claims priority to U.S. Patent No. 6,384,849, which

was filed July 14, 1997, prior to the issue date of *Gram*. The Examiner agreed during prosecution of U.S. Patent No. 6,384,849 that *Gram* was not prior art due to common ownership at the time that the invention was made. Because *Gram* is not prior art, and because Solimene does not teach each recitation of claims 1-14 and 22-25, the applicants submit that claims 1-14 and 22-25 are in condition for immediate allowance.

CONCLUSION

In view of the foregoing amendment and remarks, the applicants respectfully submit that the present application is in condition for allowance. Reconsideration and reexamination of the application and allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact the applicants' undersigned attorney at the number below.

Respectfully submitted,

MERCHANT & GOULD, LLC



By: Leonard J. Hope
Reg. No. 44,774

Date: March 31, 2005

Merchant & Gould
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
Telephone: 404.954.5100

